

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION**

COLLEEN NAQUIN

**\* CIVIL ACTION NUMBER:**



## VERSUS

\* **JUDGE**

**WAL-MART STORES, INC.**

**\* MAGISTRATE JUDGE**

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**NOTICE OF REMOVAL AND REQUEST FOR TRIAL BY JURY**

Wal-Mart Louisiana, LLC, (erroneously sued as Wal-Mart Stores Inc.), Defendant in the State suit brought by Colleen Naquin, Docket Number 2015-5174 “B” in the Sixteenth Judicial District Court in and for the Parish of St. Mary, State of Louisiana, files this Notice of Removal to remove the case from the Sixteenth Judicial District Court in and for the Parish of St. Mary, State of Louisiana, in which it is now pending, to the United States District Court for the Western District of Louisiana.

## I.

This case was commenced in the Sixteenth Judicial District Court in and for the Parish of St. Mary, State of Louisiana, on March 22, 2016 by Colleen Naquin against Wal-Mart Stores, Inc.

## II.

Process was served on Wal-Mart Louisiana, LLC, on April 4, 2016, as per copy of the Petition, Citation, and notice of service attached hereto as Exhibit “A” *in globo*.

### III.

Plaintiff's action is one of a civil nature in which she seeks to recover from Defendant damages and court costs plus legal interest for injuries allegedly received in a slip and fall accident on December 23, 2015 at the Wal-Mart Store located in Morgan City, Louisiana.

IV.

The said civil action as against the removing Defendant is one in which the District Courts of the United States have original jurisdiction by virtue of the fact that there is diversity of citizenship between the parties and by virtue of the fact that the amount in dispute exceeds the amount of \$75,000.00, exclusive of interest and costs.

V.

Defendant Wal-Mart Louisiana, LLC is a Delaware limited liability company with its principal place of business in Bentonville, Arkansas, and its sole member or owner being Wal-Mart Stores East, LP, a Delaware limited partnership with its principal place of business in Bentonville, Arkansas and which is composed of two partners, namely WSE Management, LLC (GP) and WSE Investment, LLC (LP), both Delaware limited liability companies with their principal place of business in Bentonville, Arkansas, and the sole member of said two limited liability companies is Wal-Mart Stores East, Inc., an Arkansas corporation with its principal place of business in Bentonville, Arkansas. All shares of stock in Wal-Mart Stores East, Inc. are owned by Wal-Mart Stores, Inc., a Delaware corporation with its principal place of business in Bentonville, Arkansas, which is a publicly held company.

VI.

The plaintiff is alleging that as a result of her accident at Wal-Mart, she sustained injuries to her arms and wrists. However, the plaintiff did not indicate in her petition whether the amount in controversy exceeded \$75,000.00.

VII.

On May 9, 2016, undersigned counsel sent to Plaintiff's counsel Requests for Admissions, requesting that the plaintiff admit that the amount in dispute does not exceed \$75,000.00, exclusive of interest and costs. On May 24, 2016, Plaintiff's counsel sent to undersigned counsel Responses to Request for Admissions, attached hereto as Exhibit "B," indicating that Plaintiff is claiming damages that exceed the jurisdictional amount required for a Federal jury trial. This was Defendant's first notice that this case was removable to Federal Court.

VIII.

Plaintiff's counsel has verbally advised that Plaintiff has undergone two surgeries to repair torn tendons in her arm. He further advised **Plaintiff's medical expenses from the first surgery alone are approximately \$67,000, and Plaintiff's total medical bills exceed \$75,000.** Defendant is currently in the process of obtaining Plaintiff's medical records for more specific information regarding her alleged damages and the specific diagnoses. However, at this time, based on information received from Plaintiff's counsel, Plaintiff's alleged damages appear to exceed \$75,000, as the medical expenses from the first surgery alone are nearly sufficient to meet the threshold, and Plaintiff's total medical bills exceed \$75,000.

IX.

Plaintiff is claiming damages for past and future medical expenses; past, present, and future loss of wages; physical and mental pain and suffering; disability; and loss of enjoyment of life. In particular she is seeking to recover medical expenses and general damages for two surgeries to repair torn tendons in her arm, the first of which resulted in medical expenses of approximately \$67,000. For these reasons, it appears that the amount in controversy exceeds the jurisdictional amount required for a Federal jury trial.

X.

At the time of the commencement of this action, and at all times since that time, Plaintiff, Colleen Naquin, was a citizen and resident of and domiciled in the Parish of St. Mary, State of Louisiana, as appears from Plaintiff's Petition filed in State Court. Defendant, Wal-Mart Louisiana, LLC, was and still is a Delaware limited liability company with its principal place of business in Bentonville, Arkansas, and its sole member or owner being Wal-Mart Stores East, LP, a Delaware limited partnership with its principal place of business in Bentonville, Arkansas and which is composed of two partners, namely WSE Management, LLC (GP) and WSE Investment, LLC (LP), both Delaware limited liability companies with their principal place of business in Bentonville, Arkansas, and the sole member of said two limited liability companies is Wal-Mart Stores East, Inc., an Arkansas corporation with its principal place of business in Bentonville, Arkansas. All shares of stock in Wal-Mart Stores East, Inc. are owned by Wal-Mart Stores, Inc., a Delaware corporation with its principal place of business in Bentonville, Arkansas, which is a publicly held company.

XI.

Upon the filing of this Notice of Removal and Request for Trial by Jury, written notice thereof is being given to all adverse parties, and a copy of this notice is being filed with the Clerk of Court of the aforesaid State Court to effect the removal of the civil action, all as provided for by law.

XII.

This cause is specifically removable to this Honorable Court pursuant to law, particularly the provisions of 28 U.S.C. § 1441, *et seq.*

XIII.

Defendant, Wal-Mart Louisiana, LLC, reserves all rights to object to the jurisdiction of the State Court proceedings should this Court ultimately hold that this action was not removable or improperly removed thereto.

XIV.

Defendant requests a trial by jury on all issues triable by jury.

WHEREFORE, Defendant, Wal-Mart Louisiana, LLC, prays that the aforesaid civil action be removed from the Sixteenth Judicial District Court for the Parish of St. Mary, State of Louisiana, into this Court for trial and determination as provided by law, particularly, 28 U.S.C. § 1441, *et seq.*, and thereupon to proceed with said civil action as though originally commenced in this Court and for all orders and decrees as may be necessary or appropriate in such cases made and provided. Defendant further prays for a trial by jury.

Respectfully submitted,

**DAVIDSON, MEAUX, SONNIER,  
McELIGOTT, FONTENOT,  
GIDEON & EDWARDS, L.L.P.**

*s/Philip A. Fontenot, #16918*

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Attorneys for Wal-Mart Louisiana, LLC

**CERTIFICATE**

I HEREBY CERTIFY that on this 14<sup>th</sup> day of June, 2016, a copy of the above and foregoing pleading was filed electronically with the Clerk of Court using the CM/ECF system and that a copy of this filing has this day been forwarded to all counsel of record by depositing same in the U.S. Mail, postage prepaid and properly addressed.

**DAVIDSON, MEAUX, SONNIER,  
McELIGOTT, FONTENOT,  
GIDEON & EDWARDS, L.L.P.**

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